

HOUSE BILL No. 1463

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-22-2-37.1; IC 16-18-2; IC 16-41-43.

Synopsis: Preventive care pilot program. Establishes the preventive care pilot program (program) within the department of health (department). Provides for administration of the program by the department and the insurance commissioner. Establishes criteria to participate in the program. Provides that the insurance laws do not apply to the program. Provides that the program ends July 1, 2013.

Effective: July 1, 2009.

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January 14, 2009, read first time and referred to Committee on Insurance.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1463

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.90-2008,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 37.1. (a) This section applies to a rulemaking
4 action resulting in any of the following rules:

5 (1) An order adopted by the commissioner of the Indiana
6 department of transportation under IC 9-20-1-3(d) or
7 IC 9-21-4-7(a) and designated by the commissioner as an
8 emergency rule.

9 (2) An action taken by the director of the department of natural
10 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

11 (3) An emergency temporary standard adopted by the
12 occupational safety standards commission under
13 IC 22-8-1.1-16.1.

14 (4) An emergency rule adopted by the solid waste management
15 board under IC 13-22-2-3 and classifying a waste as hazardous.

16 (5) A rule, other than a rule described in subdivision (6), adopted
17 by the department of financial institutions under IC 24-4.5-6-107



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and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

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(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency joint rule adopted by the state department of health and the insurance commissioner under IC 16-41-43.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the

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1 agency, the agency shall submit the rule to the publisher for the
 2 assignment of a document control number. The agency shall submit the
 3 rule in the form required by section 20 of this chapter and with the
 4 documents required by section 21 of this chapter. The publisher shall
 5 determine the format of the rule and other documents to be submitted
 6 under this subsection.

7 (d) After the document control number has been assigned, the
 8 agency shall submit the rule to the publisher for filing. The agency
 9 shall submit the rule in the form required by section 20 of this chapter
 10 and with the documents required by section 21 of this chapter. The
 11 publisher shall determine the format of the rule and other documents
 12 to be submitted under this subsection.

13 (e) Subject to section 39 of this chapter, the publisher shall:

- 14 (1) accept the rule for filing; and
- 15 (2) electronically record the date and time that the rule is
 16 accepted.

17 (f) A rule described in subsection (a) takes effect on the latest of the
 18 following dates:

- 19 (1) The effective date of the statute delegating authority to the
 20 agency to adopt the rule.
- 21 (2) The date and time that the rule is accepted for filing under
 22 subsection (e).
- 23 (3) The effective date stated by the adopting agency in the rule.
- 24 (4) The date of compliance with every requirement established by
 25 law as a prerequisite to the adoption or effectiveness of the rule.

26 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,
 27 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in
 28 subsections (j), (k), and (l), a rule adopted under this section expires
 29 not later than ninety (90) days after the rule is accepted for filing under
 30 subsection (e). Except for a rule adopted under subsection (a)(13),
 31 (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting
 32 another rule under this section, but only for one (1) extension period.
 33 The extension period for a rule adopted under subsection (a)(28) may
 34 not exceed the period for which the original rule was in effect. A rule
 35 adopted under subsection (a)(13) may be extended for two (2)
 36 extension periods. Subject to subsection (j), a rule adopted under
 37 subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited
 38 number of extension periods. Except for a rule adopted under
 39 subsection (a)(13), for a rule adopted under this section to be effective
 40 after one (1) extension period, the rule must be adopted under:

- 41 (1) sections 24 through 36 of this chapter; or
- 42 (2) IC 13-14-9;

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as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 2. IC 16-18-2-92.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 92.8. "Dependent", for purposes of IC 16-41-43, has the meaning set forth in IC 16-41-43-1.**

SECTION 3. IC 16-18-2-123.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 123.1. "Family", for purposes of IC 16-41-43, has the meaning set forth in IC 16-41-43-2.**

SECTION 4. IC 16-18-2-267.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 267.7. "Participating provider", for purposes of IC 16-41-43, has the meaning set forth in IC 16-41-43-3.**

SECTION 5. IC 16-18-2-292.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 292.4. "Primary care", for purposes of IC 16-41-43, has the meaning set forth in IC 16-41-43-4.**

SECTION 6. IC 16-18-2-295, AS AMENDED BY P.L.41-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 295. (a) "Provider", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.5.

(b) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for IC 16-39-7) and IC 16-41-1 through IC 16-41-9 and IC 16-41-37,

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means any of the following:

(1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:

- (A) A physician.
- (B) A psychotherapist.
- (C) A dentist.
- (D) A registered nurse.
- (E) A licensed practical nurse.
- (F) An optometrist.
- (G) A podiatrist.
- (H) A chiropractor.
- (I) A physical therapist.
- (J) A psychologist.
- (K) An audiologist.
- (L) A speech-language pathologist.
- (M) A dietitian.
- (N) An occupational therapist.
- (O) A respiratory therapist.
- (P) A pharmacist.
- (Q) A sexual assault nurse examiner.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.

(3) A health facility licensed under IC 16-28-2.

(4) A home health agency licensed under IC 16-27-1.

(5) An employer of a certified emergency medical technician, a certified emergency medical technician-basic advanced, a certified emergency medical technician-intermediate, or a certified paramedic.

(6) The state department or a local health department or an employee, agent, designee, or contractor of the state department or local health department.

(c) "Provider", for purposes of IC 16-39-7-1, has the meaning set forth in IC 16-39-7-1(a).

(d) "Provider", for purposes of IC 16-41-43, has the meaning set forth in IC 16-41-43-5.

SECTION 7. IC 16-18-2-302.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 302.4. "Qualifying event", for purposes of IC 16-41-43, has the meaning set forth in IC 16-41-43-6.**

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SECTION 8. IC 16-18-2-342.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 342.3. "Subscriber", for purposes of IC 16-41-43, has the meaning set forth in IC 16-41-43-7.**

SECTION 9. IC 16-41-43 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 43. Preventive Care Pilot Program

Sec. 1. As used in this chapter, "dependent" means:

- (1) an eligible employee's spouse; or
- (2) an unmarried child or a stepchild who is less than twenty-five (25) years of age, if the child or stepchild meets the definition of a "qualifying child" or a "qualifying relative" in Section 152 of the Internal Revenue Code.

Sec. 2. As used in this chapter, "family" means a subscriber and the subscriber's dependents.

Sec. 3. As used in this chapter, "participating provider" means a provider under this chapter that has been granted a license to operate under this chapter.

Sec. 4. As used in this chapter, "primary care" means basic or general health care that emphasizes the point when the patient first seeks assistance from the medical care system and the care of the simpler and common illnesses.

Sec. 5. As used in this chapter, "provider" means any of the following:

- (1) An independent practice of one (1) or more health care providers who:
 - (A) are licensed under IC 25;
 - (B) provide health care (as defined in IC 16-36-1-1); and
 - (C) are not controlled directly or indirectly, in whole or in part, by any other person or entity.
- (2) A freestanding facility that provides health care on an outpatient basis to individuals who are not institutionalized or homebound. However, the term does not include a freestanding facility located on the campus of an existing health care facility.

Sec. 6. As used in this chapter, "qualifying event" means loss of coverage due to any of the following:

- (1) Emancipation and resultant loss of coverage under a parent's or guardian's plan.
- (2) Divorce and loss of coverage under the former spouse's plan.

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(3) Termination of employment and resultant loss of coverage under an employer group plan. However, any rights of coverage under a COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985) continuation plan are not considered coverage under an employer group health plan.

(4) Involuntary termination of coverage under a group health benefit plan, except for termination due to nonpayment of premiums or fraud by the insured.

(5) Exhaustion of COBRA benefits.

Sec. 7. As used in this chapter, "subscriber" means an individual who subscribes to a prepaid program approved and operated under this chapter, including an employee of an employer that has purchased a group enrollment on behalf of the employer's employees.

Sec. 8. The state department shall, in consultation with the insurance commissioner, develop and implement not later than July 1, 2010, a preventive care pilot program that permits not more than eight (8) providers to market and sell prepaid memberships entitling subscribers to obtain preventive and primary health care from the participating providers.

Sec. 9. Subject to this chapter, the state department may select providers using diversity in practice organization, geographical diversity, and other criteria the state department determines are appropriate. The state department shall give consideration to providers who are located in rural areas or serving a high percentage or large numbers of uninsured individuals.

Sec. 10. The state department may accept gifts, grants, and matching funds whether in the form of money or services to assist in the implementation of this chapter.

Sec. 11. (a) To participate in the preventive care pilot program under this chapter, a provider must obtain a preventive care pilot program license from the state department.

(b) The state department shall determine the eligibility of providers to obtain preventive care pilot program licenses on the basis of applications filed by providers on forms developed by the state department.

(c) Upon approval of the application, the participating provider shall be granted a preventive care pilot program license to market and sell prepaid health services under the terms established in guidelines developed by the state department and the insurance commissioner.

Sec. 12. (a) The insurance commissioner shall develop guidelines

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for all forms, marketing materials, and fees proposed by preventive care pilot program applicants and participating providers under the same criteria generally applicable to accident and sickness insurance policies (as defined in IC 27-8-5.6-1).

(b) Any fees, marketing materials, or forms proposed to be used by a preventive care pilot program applicant or participating provider are subject to prior approval by the insurance commissioner. The insurance commissioner may not approve any fees that are excessive, inadequate, or unfairly discriminatory.

(c) The insurance commissioner shall communicate to the state department any approvals made under this section.

Sec. 13. (a) The insurance commissioner must certify whether:

(1) a program applicant; or

(2) upon the request of the department, an already participating provider;

is in a sound financial condition and capable of operating in a manner that is not hazardous to its prospective subscribers.

(b) A subscriber is entitled to a written description of the preventive care pilot program membership that contains:

(1) a clear, concise, and complete statement of the services provided by the participating provider;

(2) the benefits, if any, to which the subscriber is entitled;

(3) any exclusions or limitations on the service, kind of service, benefits, or kind of benefits to be provided, including any copayments; and

(4) where and in what manner information is available concerning how a service may be obtained.

(c) Fees paid to participating providers are not subject to any premium taxes and surcharges imposed on insurance companies.

Sec. 14. (a) Notwithstanding IC 27, participation by providers in the preventive care pilot program established under this chapter is not considered as providing insurance or as offering insurance services.

(b) Providers licensed under this chapter and services offered under this chapter are not subject to the requirements under IC 27 and regulation by the insurance commissioner except to the extent allowed under this chapter.

Sec. 15. (a) As used in this section, "medical home" means a team approach involving a primary health care provider, health specialist, or other specialist to provide health care and health care management to a subscriber, including the development of a plan of health care, the determination of the desired health outcomes,

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1 facilitation and navigation of the health care system, provision of
2 follow-up and support for achieving the health identified outcomes.

3 (b) Each medical home shall maintain a centralized,
4 comprehensive record of all health related services to provide
5 continuity of care to the participating provider's subscribers.

6 Sec. 16. A participating provider may not offer preventive care
7 pilot program services at more than three (3) separate sites.

8 Sec. 17. (a) The state department and the insurance
9 commissioner shall adopt joint rules under IC 4-22-2 that are
10 necessary to implement this chapter.

11 (b) The state department and the insurance commissioner may
12 adopt joint emergency rules under IC 4-22-2-37.1.

13 Sec. 18. Subject to this chapter and any rules adopted by the
14 state department and insurance commissioner, the plans offered
15 under this chapter are subject to the following:

16 (1) Each participating provider and site where the
17 participating provider offers services must offer a minimum
18 set of preventive and primary care services as established by
19 the department.

20 (2) A participating provider may not offer any of the
21 following:

22 (A) An individual plan to any individual who currently has
23 a health benefit plan or was covered by a health benefit
24 plan within the preceding twelve (12) months unless the
25 coverage was lost due to a qualifying event.

26 (B) A family plan to any family that includes an adult to be
27 covered who currently has a health benefit plan or was
28 covered by a health benefit plan within the preceding
29 twelve (12) months unless the coverage was lost due to a
30 qualifying event.

31 (C) An employee group plan to any employer that
32 currently has a group health benefit plan or had a group
33 health benefit plan covering its employees within the
34 preceding twelve (12) months.

35 (3) The state department and the insurance commissioner
36 may adopt a rule under IC 4-22-2 to permit participation by
37 an employer with a comprehensive high deductible plan if the
38 employer is able to demonstrate that participation will not
39 negatively impact the coverage currently offered by the
40 employer.

41 (4) A participating provider must provide subscribers and,
42 where applicable, subscribers' employers with at least thirty

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(30) days notice of discontinuance or reduction of subscriber benefits.

Sec. 19. The state department:

(1) shall establish guidelines to evaluate the pilot program; and

(2) may require participating providers to submit data and other information related to the pilot program that the state department determines is necessary.

However, any personal income tax returns filed under this chapter are confidential and may not be disclosed by the state department or the insurance commissioner.

Sec. 20. Not later than December 1, the state department shall submit an annual report, in an electronic format under IC 5-14-6, to the health finance commission established by IC 2-5-23-3 concerning the progress made by the pilot project, including any suggested legislation, necessary changes to the pilot program, and suggested expansion of the pilot program.

Sec. 21. (a) The state department may, after notice and hearing, refuse to renew or revoke or suspend the license of a participating provider for any of the following actions or reasons:

(1) The participating provider violates this chapter.

(2) The participating provider fails to comply with any lawful rule or order of the department.

(3) The participating provider is operating in an illegal, improper, or unjust manner.

(4) The participating provider is found by the insurance commissioner to be in an unsound condition or in a condition that renders the participating provider's further operation hazardous to its subscribers.

(5) The participating provider compels subscribers under the participating provider's contract to accept less service than is allowed or to bring suit against the participating provider to secure full service when the participating provider does not have a substantial defense.

(6) The participating provider refuses to be examined or to produce its accounts, records, and files for examination by the insurance commissioner when requested to do so under section 13 of this chapter.

(7) The participating provider fails to pay any final judgment rendered against it in Indiana not later than thirty (30) days after the judgment becomes final or the time for appeal has expired, whichever is later.

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1 (8) The participating provider fails to pay when due to the
2 state any taxes, fees, charges, or penalties.

3 (b) In addition to or instead of refusing to renew, revoking, or
4 suspending the license of a participating provider, the state
5 department may, by order, require the participating provider to
6 pay a penalty of not more than five thousand dollars (\$5,000) for
7 each violation. If the participating provider does not pay the
8 penalty not later than thirty (30) days after receiving notice, the
9 state department shall revoke or suspend the license of the
10 participating provider.

11 (c) If a license has been revoked or suspended or renewal
12 refused, the state department may reissue, terminate the
13 suspension of, or renew the license when the state department
14 determines that the conditions causing the revocation, suspension,
15 or refusal to renew have ceased to exist and are unlikely to occur
16 again.

17 Sec. 22. This chapter expires July 1, 2013.

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